

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESale PRICE )  
LITIGATION )  
\_\_\_\_\_ )

THIS DOCUMENT RELATES TO: )

*United States of America ex rel. Ven-a-Care of* )  
*the Florida Keys, Inc. v. Abbott Laboratories,* )  
*Inc., Civil Action No. 06-11337-PBS;* )

MDL No. 1456

Civil Action No. 01-12257-PBS

Hon. Patti B. Saris

*United States of America ex rel. Ven-a-Care of* )  
*the Florida Keys, Inc. v. Dey, Inc., et al., Civil* )  
*Action No. 05-11084-PBS; and* )

*United States of America ex rel. Ven-a-Care of* )  
*the Florida Keys, Inc. v. Boehringer* )  
*Ingelheim Corp., et al., Civil Action No. 07-* )  
*10248-PBS* )

JULY 2008 STATUS REPORT OF THE UNITED STATES AND THE RELATOR  
VEN-A-CARE OF THE FLORIDA KEYS

The United States of America (“United States”) and Ven-A-Care of the Florida Keys, Inc. (“Ven-A-Care” or the “Relator”), Plaintiffs, through their undersigned counsel, respectfully file the attached Status Report for July 2008, in accordance with the Court’s June 17, 2004, Procedural Order.

<b>United States of America ex rel. Ven-a-Care of the Florida Keys, Inc., v. Abbott Laboratories, Inc.</b> <b>MDL Docket Number 06-11337</b> <b>Original Jurisdiction: U. S. District Court Southern District of Florida</b>		
<b>Item No.</b>	<b>Pending Motions</b>	<b>Hearing Date</b>
1.	<p><b>(Docket #4711)</b> Abbott Laboratories, Inc.'s Motion For a Preservation Order and Affidavit Regarding Spoliation Issues</p> <ul style="list-style-type: none"> <li>• <b>(Docket #4744)</b> United States' Unopposed Motion to Enlarge Time</li> <li>• <b>(Docket #4808)</b> United States' Response to Defendant Abbott's Motion for a Preservation Order.</li> <li>• <b>(Docket #4820)</b> Abbott Laboratories Inc.'s Unopposed Motion for Leave to File a Reply Memorandum in Support of Motion for a Preservation Order and Affidavit Regarding Spoliation Issues</li> <li>• <b>(Docket #4883)</b> Abbott Laboratories, Inc.'s Renewed Motion for Leave to File Reply in Support of Its Motion for a Preservation Order and Affidavit Regarding Spoliation Issues</li> </ul>	
2.	<p><b>(Docket #4920)</b> Memorandum by the United States Relating To Documents Submitted for in Camera Review Pursuant to the Court's Order of November 9, 2007</p> <p><b>(Docket #5355)</b> Submission By The United States Of Privileged Documents Relating To Abbott Drugs For In Camera Review Pursuant To Court's Order Of Nov. 9, 2007</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5353)</b> Memorandum By The United States Relating To In Camera Submission Of Documents Pertaining To Abbott Drugs Pursuant To The Court's Order Of Nov. 9, 2007</li> </ul>	
3.	<p><b>(Docket #5035)</b> Abbott Laboratories, Inc.'s Motion to Compel Ven-A-Care to Provide Adequate Responses to Abbott's Fourth Set of Interrogatories</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5057)</b> Relator's Opposition to Abbott Laboratories, Inc.'s Motion to Compel Ven-A-Care to Provide Adequate Responses to Abbott's Fourth Set of Interrogatories</li> </ul>	

4.	<p><b>(Docket #5112 and #5115)</b> Abbott Laboratories, Inc.'s Motion to Compel Testimony of Government Witnesses and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5144)</b> Memorandum by United States in Opposition to Abbott's Motion to Compel Testimony of Government Witnesses</li> <li>• <b>(Docket #5151)</b> Abbott Laboratories, Inc.'s Unopposed Motion for Leave to File Reply in Support of Its Motion to Compel Testimony of Government Witnesses</li> </ul>	
5.	<p><b>(Docket #5128 and #5129)</b> United States' Motion to Quash the Subpoenas of Ira Burney and Debbie Chang and in Support of a Protective Order and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5135)</b> Abbott Laboratories Inc.'s Opposition Motion to the United States' Motion to Quash the Subpoenas of Ira Burney and Debbie Chang and in Support of a Protective Order</li> <li>• <b>(Docket #5149)</b> Motion for Leave to File the United States' Reply to Abbott Laboratories Inc.'s Opposition to the United States' Motion to Quash the Subpoenas of Ira Burney and Debbie Chang and in Support of a Protective Order</li> </ul>	
6.	<p><b>(Docket #5156 and #5157)</b> United States' Motion for a Protective Order Regarding Abbott's Rule 30(b)(6) Notices and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5177)</b> Defendant Abbott Laboratories, Inc.'s Response to the United States' Motion for a Protective Order Relating to Abbott's Requests for Depositions Under Rule 30(b)(6)</li> <li>• <b>(Docket #5202)</b> United States' Unopposed Motion for Leave to Reply to Abbott Laboratories Inc.'s Opposition to the United States' Motion for a Protective Order Regarding Abbott's Rule 30(b)(6) Notices</li> </ul>	

7.	<p><b>(Docket #5173)</b> Abbott Laboratories, Inc.'s Motion to Compel Production of Documents from the United States</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5254)</b> Memorandum by the United States in Opposition to Abbott's Motion to Compel the Production of Documents</li> <li>• <b>(Docket #5275)</b> Motion for Leave to File Reply in Support of Motion to Compel Production of Documents by Abbott Laboratories, Inc..</li> </ul>	
8.	<p><b>(Docket #5174 and #5175)</b> Abbott Laboratories, Inc.'s Motion to Compel Sufficient Responses to Abbott's Requests for Admissions and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5255)</b> United States Response to Abbott Laboratories, Inc.'s Motion to Compel Sufficient Responses to Abbott's Requests for Admissions</li> </ul>	
9.	<b>(Docket #5176)</b> Joint Motion for Enlargement of Time to Complete Six Depositions	
10.	<b>(Docket #5178)</b> Motion for Extension of Time to April 25, 2008 to Produce Documents and a Privilege Log by United States	
11.	<p><b>(Docket s #5179 and #5180)</b> United States' Motion to Compel the Production of Documents and Deposition Testimony and memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5258)</b> Abbott Laboratories Inc.'s Response in Opposition to Plaintiff's Motion to Compel Documents and Deposition Testimony</li> <li>• <b>(Docket #5273)</b> Motion for Leave to File Reply to Abbott's Response to the United States' Motion to Compel Production of Documents and Witnesses by United States with attached Reply</li> </ul>	
12.	<b>(Docket #5181)</b> Motion for Extension of Time to April 25, 2008 to Complete Document Production by Abbott Laboratories, Inc.	

13.	<p><b>(Docket # 5256)</b> Motion for Certificate of Appealability for Interlocutory Appeal of Court's November 9, 2007 and March 12, 2008 Rulings on Deliberative Process Privilege by Abbott Laboratories, Inc.</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5281 and #5283)</b> Memorandum of Law by Dey, L.P., Inc., Dey Inc., Dey LP to 5256 Motion for Certificate of Appealability for Interlocutory Appeal of Court's November 9, 2007 and March 12, 2008 rulings on Deliberative Process Privilege and Supporting Declaration</li> <li>• <b>(Docket #5286)</b> Response to Motion re 5256 Motion for Certificate of Appealability for Interlocutory Appeal of Court's November 9, 2007 and March 12, 2008 rulings on Deliberative Process Privilege filed by United States</li> <li>• <b>(Docket #5343)</b> Assented to Motion for Leave to File Reply in Support of Its Request for Certification of Interlocutory Appeal Under 28 U.S.C. Sec. 1292(b) by Abbott Laboratories, Inc. with attached Reply</li> </ul>	7/24/2008 3:30 p.m.
14.	<p><b>(Docket # 5276)</b> Abbott 's Motion to Enforce the February 16, 2007 Protective Order and for Order Compelling Plaintiff to Return Inadvertently Produced Privileged Documents</p> <ul style="list-style-type: none"> <li>• <b>(Docket #5344)</b> Opposition re 5276 Motion to Enforce the February 16, 2007 Protective Order</li> <li>• <b>(Docket #5360)</b> Sealed Document - Exhibits A and B to [5344] Opposition to [5276] Motion to Compel Return of Inadvertently Produced Privileged Documents.</li> <li>• <b>(Docket # 5397)</b> Motion for Leave to File Reply in Support of its Motion to Enforce the February 16, 2007 Protective Order and for Order Compelling Plaintiffs to Return Inadvertently Produced Privileged Documents by Abbott Laboratories, Inc.</li> <li>• Sur-Reply by United States - pending</li> </ul>	
15.	<p><b>(Docket # 5407)</b> Abbott Laboratories Inc.'s Emergency Motion to Amend CMO-29 and Request for Expedited Relief</p> <ul style="list-style-type: none"> <li>• Response by United States - pending</li> </ul>	

<b>United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc., et al.,</b> <b>MDL Docket No. 05-11084-PBS</b> <b>Original Jurisdiction: United States District Court, District of Massachusetts</b>		
<b>Item No.</b>	<b>Pending Motions</b>	<b>Hearing Date</b>
1.	<p><b>(Docket # 5356 and #5357)</b> United States' Motion for a Protective Order Regarding the Dey Defendants' Rule 30(b)(6) Notice and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>(Docket # 5386)</b> Defendants Dey, Inc., Dey L.P., and Dey L.P., Inc.'s Consent Motion for Enlargement of Time</li> <li>• <b>(Docket # 5394 and #5395)</b> Defendants Dey, Inc., Dey L.P., and Dey L.P., Inc.'s Memorandum of Law in Opposition to the Government's Motion for a Protective Order Relating to the Requests by the Dey Defendants for Depositions under Rule 30(b)(6) and Supporting Declaration</li> <li>• The United States plans to file a motion seeking leave to file a reply on or before July 11, 2008. Dey reserves the right to oppose any such filing.</li> </ul>	

<b>United States of America ex rel. Ven-A-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp., et al.,</b> <b>MDL Docket No. 07-10248-PBS</b> <b>Original Jurisdiction: United States District Court, District of Massachusetts</b>		
<b>Item No.</b>	<b>Pending Motions</b>	<b>Hearing Date</b>
1.	<p><b>(Docket # 57 and #58)</b> Joint Motion to Compel Production of Relator Ven-A-Care's Disclosure Statement and Any Subsequent Amendments by Boehringer Ingelheim Corporation, Boehringer Ingelheim Pharmaceuticals, Inc., Roxane Laboratories, Inc. and Memorandum of Law</p> <ul style="list-style-type: none"> <li>• <b>June 10, 2008 Order:</b> Judge Patti B. Saris: Electronic Order entered Referring 57 Joint Motion to Compel Production to Magistrate Judge Marianne B. Bowler.</li> <li>• Response Due July 3, 2008</li> </ul>	

Respectfully Submitted,

For the United States of America,

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July 1, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused an electronic copy of the above "JULY 2008 STATUS REPORT OF THE UNITED STATES AND THE RELATOR VEN-A-CARE OF THE FLORIDA KEYS" to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

s/ Mark Lavine

Dated: July 1, 2008